

CONFIDENTIAL DISCLOSURE AGREEMENT

This Agreement is made by and between the National Cancer Institute, an agency of the United States Government, having a place of business at 9000 Rockville Pike, Bethesda, Maryland, 20892 (hereinafter referred to as "NCI"), and _____ an entity organized and existing under the laws of _____ having a place of business at: _____ (hereinafter referred to as "Company").

WHEREAS, NCI has certain confidential and/or proprietary information relating to _____ (hereinafter referred to as the "Confidential Information"); and

WHEREAS, NCI's Confidential Information will be provided to Company in order to determine the desirability of entering into an agreement relating to the development of such Confidential Information, and Company is interested in examining the Confidential Information of NCI in order to determine the desirability of acquiring rights in and to such Confidential Information and/or under any patent rights obtained therefore;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the Parties hereto agree as follows:

1. NCI shall disclose and transmit Confidential Information to Company solely for the purpose of and in sufficient detail to enable Company to make the determinations set forth above.
2. Company agrees to employ all reasonable efforts to maintain the Confidential Information of the NCI secret and confidential, such efforts to be no less than the degree of care employed by Company to preserve and safeguard its own confidential information. The Confidential Information shall not be disclosed, revealed, or given to anyone by Company except employees of Company who have a need to have the Confidential Information in connection with Company's evaluation, and who have entered into a secrecy agreement with Company under which such employees are required to maintain confidential and secure the Confidential Information, and such employees shall be advised by Company of the confidential nature of the Confidential information and that the Confidential Information shall be treated accordingly.
3. It is hereby acknowledged by NCI that Company shall incur no liability merely for examining and considering the Confidential Information; however, Company agrees that it will not use the Confidential Information for any purpose except as set forth herein, provided that such limitation shall not apply to the Company if and when a further signed agreement is first made providing the terms and conditions under which rights are to be acquired by Company .
4. Company's obligations under Paragraph 2 and 3 above shall not extend to any part of the Confidential Information:
 - (a) that can be demonstrated to have been publicly known at the time of disclosure; or
 - (b) that can be demonstrated to have been in the Company's possession of or that can be demonstrated to have been readily available Company from another source prior to the disclosure; or
 - (c) that becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by Company or its subsidiaries;
 - (d) that can be demonstrated as independently developed or acquired by Company without

reference to or reliance upon such Confidential Information; or

(e) that is required to be disclosed by law, provided that Company takes reasonable and lawful actions to avoid and/or minimize such disclosure.

5. Company's obligations under Paragraphs 2 and 3 shall extend for a period of four (4) years from the date of this Agreement, unless NCI informs Company that the Confidential Information is still secret and confidential, in which case the obligations of Paragraphs 2 and 3 hereof shall extend for a further period of three (3) additional years.
6. All information to be deemed confidential under this Agreement shall be clearly marked "**CONFIDENTIAL**" by the NCI. Any Confidential Information which is orally disclosed must be reduced to writing and marked "**CONFIDENTIAL**" by the NCI within thirty (30) days of such disclosure.
7. It is understood that nothing herein shall be deemed to constitute, by implication or otherwise, the grant to Company of any license or other rights under any patent, patent application or other intellectual property right or interest belonging to NCI or as permitting Company to unfairly obtain the right to use any Confidential Information which becomes publicly known through an improper act or omission on its part.
8. It is understood and agreed by both Parties, that each represents and warrants to the other Party, that the Official signing this Agreement on behalf of the Party represented has authority to do so.
9. The illegality or invalidity of any provision of this Agreement shall not impair, affect or invalidate the other provisions of this Agreement
10. The construction, validity, performance and effect of this Agreement shall be governed by Federal law, as applied by the Federal Courts in the District of Columbia. Federal law and regulations will preempt any conflicting or inconsistent provisions in this Agreement.

SIGNATURES

By executing this Agreement, each of the undersigned represents and confirms that he or she is fully authorized to bind the identified entity to its terms. Each of the undersigned expressly certifies or affirms that the contents of any statement made or reflected in this document are truthful and accurate.

AGREED TO AND ACCEPTED BY:

For the National Cancer Institute:

(Signature)

(Date)

(Printed Name and Title)

Address correspondence related to this Agreement to:

Sherry S. Ansher, Ph.D.
Coordinator, Research & Development Agreements
Regulatory Affairs Branch
Cancer Therapy Evaluation Program, DCTD
National Cancer Institute, NIH
6130 Executive Boulevard, Suite 718
Rockville, MD 20852
Telephone: 301-496-7912
Fax: 301-402-1584

For the Collaborator:

(Signature)

(Date)

(Printed Name and Title)

Address: